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September 7, 2018

To:  
Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12th Street, SW, Room TW-B204  
Washington, D.C. 20554

From: Pueblo de Cochiti

Re: Comments regarding FCC Notice of Proposed Rulemaking (18-120)

Dear Secretary Dortch,

Thank you for the opportunity to comment on the FCC's proposed rulemaking regarding Transforming the 2.5 GHz Band under WT Docket No. 18-120. The comments are respectfully submitted by the Pueblo de Cochiti, a rural Tribe in the State of New Mexico with an estimated 1000 Tribal members living on the reservation.

Given that the 2.5 GHz band constitutes the single largest band of contiguous spectrum below 3 gigahertz, we are presented with a rare opportunity to address the digital divide on our Tribal land. Furthermore, this is an overdue opportunity to demonstrate that with access to spectrum, Tribes are capable to build and deploy network services that improve education, public safety, health, environmental protection, and economic vitality in rural America.

At the Pueblo de Cochiti, the Tribe worked with three neighboring Tribes to build a fiber path to a regional collocation facility in Albuquerque to connect our critical community computing centers – the Tribal libraries – with broadband Internet. Were the incumbent telecommunication providers to have fulfilled their buildout requirements and able to provide fast and affordable Internet in this rural area, the herculean effort would not have been necessary. However, they did not and the Tribes successfully stepped in to solve our connectivity issue. As a result, the Internet speed at our Tribal library is not only 2000% faster and 98% less expensive than before but is it symmetrical and almost infinitely scalable.

However, education is not the only sector in dire need of high speed Internet. With experience as a network owner and operator, the Pueblo de Cochiti, is ready to deploy broadband over the 2.5 GHz spectrum. However, the EBS spectrum is completely assigned over our Tribal land by entities that are not necessarily providing services to the community. And while the higher education licensees are willing partners to advance educational initiatives, their bands are limited in number and are non-contiguous. A non-educational sub-licensee is sitting on the majority of



the bands and is not using it for educational purposes or to serve Tribal land. Therefore, the Pueblo de Cochiti is unable to deliver robust speeds over the 2.5 GHz spectrum under current licensing rules despite having the built fiber back haul and having tested equipment installation and delivery of LTE service. The only barrier is access to spectrum.

In light of our current situation, the Pueblo de Cochiti has the following comments regarding the transformation of the 2.5 GHz band:

- Tribes should be granted a first local priority filing window to obtain spectrum before other entities, including current licensees seeking to expand. During this window, Tribes should have the option to acquire all available channels in the 2.5 GHz band on Tribal Land.
- If less than 50% of a Tribal community is served by existing licensees and/or the 2.5 GHz band is not in use, Tribes should have the option to use the 2.5 GHz spectrum to build and maintain their own networks.
- The Pueblo de Cochiti agrees that census tracts should define the geographic service areas. For Tribes, however, the geographic service area should be marked by reservation boundaries rather than census tracts. Where reservation boundaries cross a census tract, the Tribe should be able license all the bands in that census tract to provide services to their Near Reservation Lands neighbors who will also be challenged by high cost and slow speeds.
- The definition of rural, varies from program to program and should not be used to qualify Tribal lands. The Pueblo de Cochiti is considered "rural" by E-rate but not Healthcare Connect. The varying methodologies employed to define rurality have punitive and erratic outcomes. The Pueblo de Cochiti shares the concern of the National Congress of American Indians (NCAI) "that limiting access to an undefined "rural area" for purposes of the 2.5 GHz band will reduce flexibility for Tribal nations to use this spectrum; create definitional uncertainty for Tribal nations; and create separate classes of Tribal governments, which is inconsistent with the intent of Congress. The Pueblo de Cochiti, shares NCAI recommendation that the FCC use the existing definitions at 47 CFR § 73.7000.
- The Pueblo de Cochiti agrees with the Confederated Tribes of the Colville Reservation that "local presence" be required for any applicants licensing this spectrum, as defined by the FCC definition of "local", as "those institutions and organizations that are physically located in the community, or metropolitan area where the service is proposed." The Pueblo de Cochiti agrees that local presence can be proven through tax records showing that the entity has at least 10 employees working in the service area.
- The Pueblo de Cochiti agrees with the American Indian Higher Education Consortium (AIHEC) that Tribes wishing to acquire EBS licenses would have precedence over new educational institutions but that new educational institutions and qualifying native organizations, have the second local filing window. Tribal nations could acquire EBS licenses and provide a broadband services solution for all educational institutions within their boundaries, in partnership with education stakeholders.
- The educational focus of the EBS spectrum should be preserved and should focus on connecting the most disadvantaged students of any age. However, in the education of the "whole student" other factors include emotional and physical well-being. As these "whole students" constitute the community, aspects of public safety, human services, health care, environmental protection, economic development, and other public

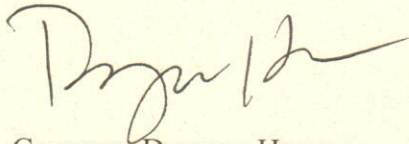


sectors play role in the educational mission of the Tribe. For that reason, education is a broad mission that is best defined by the Tribe.

- We request a 90-day notice before any priority filing window is introduced and 60-days within which to file for unused spectrum.

We thank you for the opportunity to provide comments and urge the FCC to consider the importance of internet-equity for Native nations as it makes unused portions of the 2.5 GHz band available, prioritizing communities that have become increasingly disenfranchised in the digital age.

Thank you,

A handwritten signature in black ink, appearing to read 'Dwayne Herrera', with a stylized flourish extending to the right.

Governor Dwayne Herrera  
Pueblo de Cochiti